

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bogdan Radu et al. Confirmation No.: 5462
Serial No.: 10/711,463
Filing Date: September 20, 2004
Examiner: Jeremy Austin Luks
Art Unit: 2837
Title: DOOR TRIM SPEAKER GRILLE WITH ELECTROLUMINESCENT LAMP AND INJECTION MOLDING METHOD OF MAKING SAME
Attorney Docket: MASL-59

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Response is responsive to the non-final Office Action mailed September 27, 2006. Claims 1-9 are pending. In view of the following remarks, Applicants respectfully submit that this application is in complete condition for allowance and request reconsideration of the application in this regard.

Claim Rejections

Claims 1 and 4-7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over German Publication No. 10316678 to Stuffle in view of European Publication No. 1448027 to Moser. Claims 2, 3, and 8 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Stuffle and Moser further in view of U.S. Publication No. 2003/0048912 to Reich. As detailed below, Applicants request that the Examiner withdraw these rejections.

Applicants recognize that German Publication No. 10316678 is available as a publication under 35 U.S.C. 102(a). Specifically, German Publication No. 10316678 published on August 19, 2004. However, this publication date is less than one year before the September 20, 2004 filing date of the present application, which means that this reference is not prior art to the present application under 35 U.S.C. § 102(b).

Applicants submit an affidavit of prior invention under 37 C.F.R. § 1.131, as an attachment herewith, which has been executed by all inventors of the subject matter claimed. The affidavit establishes that Applicants invented the claimed subject matter before the publication date of German Publication No. 10316678. Attached to the affidavit is a photocopy of an original exhibit consisting of a written invention disclosure. Applicants' showing of facts is, in character and weight, sufficient as to establish that the inventors conceived an automotive interior component that embodies the features and advantages of the present invention, as claimed in the present application, in the United States prior to August 18, 2004, which represents the publication date of German Publication No. 10316678. Consequently, German Publication No. 10316678 is not a valid prior art reference under 35 U.S.C. § 102(a). On this basis, Applicants respectfully request that the Examiner withdraw the rejection.

In the Office Action, the Examiner relies on U.S. Publication No. 2005/0002199 to Stuffle as a translation of German Publication No. 103116678. U.S. Publication No. 2005/0002199 claims foreign priority to German Publication No. 10316678, which was published by the German Patent Office. According to MPEP §§ 706.02(f), 715(III)(A) and Example 3 in MPEP § 706.02(f), the prior art date accorded to U.S. Publication No. 2005/0002199 under 35 U.S.C. 102(e) is the earliest effective U.S. filing date (i.e., April 9, 2004). No benefit of the filing date of German Publication No. 103116678 is given under 35 U.S.C. § 102(e) for prior art purposes as to U.S. Publication No. 2005/0002199. Virtue of Applicants' affidavit of prior invention under 37 C.F.R. § 1.131, U.S. Publication No. 2005/0002199 is not a valid prior art reference under 35 U.S.C. § 102(e).

Conclusion

Applicants have made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing remarks, this application is submitted to be in complete condition for allowance and, accordingly, a timely notice of allowance to this effect is earnestly solicited. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicants do not believe fees are dues in connection with filing this communication other than a one month time extension fee. If, however, any fees are necessary as a result of this communication, the Commissioner is hereby authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,

January 19, 2007

Date

/William R. Allen/

William R. Allen, Ph.D.

Reg. No. 48,389

WOOD, HERRON & EVANS, L.L.P.

2700 Carew Tower

441 Vine Street

Cincinnati, Ohio 45202

Telephone: (513) 241-2324

Facsimile: (513) 241-6234